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Susanville, CA 96127-3030  
CDCR #P-13296

FILED

08 JUN 19 PM 12:20

In Pro Per

RICHARD W. WHEAT  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATE DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARC DAWSON,

No. C 08-0741 JF (PR)

Plaintiff,

v.

MOTION TO DISMISS ACTIONS

S.LATHAM, et al.,

AGAINST DEFENDANTS

Defendants,

M. MORGAN, M. MCLEAN, AND

A. THACKER

COMES NOW THE PLAINTIFF, Marc Dawson, moving this to grant his motion to dismiss civil actions against the following Defendants:

M. MORGAN, M. MCLEAN, AND A. THACKER.

This motion should be granted due to Plaintiff being unable to state, or pursue, any claims of relief against these three Defendants.

INTRODUCTION

Plaintiff, a California prisoner incarcerated at High Desert State Prison, filed the instant civil rights action pursuant to 42 U.S.C. § 1983 alleging prison medical staff violated his constitutional right to receive medical treatment along with the right to be free of deliberate indifference from the same medical staff.

DISCUSSION

The Plaintiff must state a cognizable claim which relief may be granted by the court. The Plaintiff must show that a right secured by the Constitution or law of the United States was violated and that the violations were committed under the

1 color of state law.

2 In the order dated 5/8/08, the Honorable Judge Jeremy Fogel, after review-  
3 ing the Plaintiff's complaint, determined that there was not a cognizable claim for  
4 actions against Defendants MORGAN, MCLEAN, and THACKER for appeal related issues in  
5 that there is no Constitutional right to a prison administrative appeal or grievance  
6 system. Rameriz v. Galaza, 334 F.3d 850, 860 (9th. Cir. 2003).

7 The Plaintiff's inclusion of Defendants MORGAN, MCLEAN, and THACKER relied  
8 on Due Process violations in regards to the grievance system and procedures. At the  
9 federal level, this Due Process violation does not exist.

10 The doctrine of **respondent superior** does not apply in this complaint. That  
11 MORGAN, MCLEAN, and THACKER were in superior positions, they were not directly lia-  
12 ble, or responsible for the harm done by Defendants LATHAM, EDWARDS, and JAIN. With  
13 no direct involvement in the alleged incident, and the Plaintiffs interaction after  
14 the fact with MORGAN, MCLEAN, and THACKER, they could not provide any actions which  
15 would correct the actions of the staff members that they relied on the judgment and  
16 competence of.

17 In respecting the judgment of this court, the Plaintiff does not desire to  
18 waste this courts time by pursuing matters that cannot state a cognizable claim for  
19 relief on by the Plaintiff. The actions against MORGAN, MCLEAN, and THACKER cannot,  
20 and will not be allowed to continue once the issues are reviewed by this court.

### 21 CONCLUSION

22 Due to the above-stated reasons this motion to dismiss actions  
23 against Defendants MORGAN, MCLEAN, and THACKER be granted.

### 24 DECLARATION

25 The Plaintiff, Marc Dawson, hereby enters this motion freely and all of the  
26 issues are true to the best of his knowledge.

27 Dated: June 16th, 2008.

28 /s/ Marc Dawson  
Marc Dawson, in pro per and pro se

B3

David W. Hill

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STATE PRISON



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